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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,191	05/03/2007	Isabelle Bossard	15261.0003USWO	2933
23552	7590	10/27/2010		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER SIMPSON, SARAH A	
			ART UNIT	PAPER NUMBER
			3731	
			MAIL DATE	DELIVERY MODE
			10/27/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,191

Applicant(s)

BOSSARD ET AL.

Examiner

SARAH A. SIMPSON

Art Unit

3731

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 14-16 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 14-16 and 21-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgement is made of the amendment filed 6/11/2010, amending claims 1, 14 and 21 and canceling claims 9-13 and 17-20. Accordingly, claims 1-8, 14-16 and 21-33 are currently pending and presented for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-8, 14-16 and 21-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Welt et al. (US 5,984,935)** in view of **Teed et al. (US 2005/0197665 A1)**.

Regarding claim 1, Welt discloses a non-shaving head (4) which in use is capable of being moved over the skin to effect removal of the composition; a handle (6)

having a broadened end distal from the non-shaving head (fig. 7); and a joint between the head and the handle, permitting an articulation of the head about the handle, the joint being defined by an opening oriented upward when used to effect the removal of the composition (fig. 7; column 3, lines 47-53); wherein both the non-shaving head and the handle have a downward concave curvature profile when used to effect the removal of the composition, the downward concave curvature profile of the handle extending along a majority of the length of the handle (fig. 7).

Welt fails to disclose wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle.

However, Teed teaches a non-shaving head wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle (figs. 1, 2; [0030]; wherein the handle begins proximal to strap 23).

Given the teachings of Teed, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Welt with the continuous concave handle of Teed. Doing so provides a comfortable fit in the palm of the user's hand, as disclosed by Teed ([0030]).

Regarding claim 14, Welt discloses a non-shaving head (4), the head comprising a planar surface (the blade 10) comprising a flat top surface and a flat under surface, the planar surface ending in a single straight edge (column 3, lines 7-11); a handle (6) having a broadened end distal from the head (fig. 7); and a single joint between the handle and the head having an upward opening that limits articulation of the head with respect to the handle during use in removing compositions (column 3,

lines 47-53); wherein both the non-shaving head and the handle have a concave curvature profile relative to the tissue during use, the concave curvature profile of the handle extending along a majority of the length of the handle (fig. 7).

Welt fails to disclose wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle.

However, Teed teaches a non-shaving head wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle (figs. 1, 2; [0030]; wherein the handle begins proximal to strap 23).

Given the teachings of Teed, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Welt with the continuous concave handle of Teed. Doing so provides a comfortable fit in the palm of the user's hand, as disclosed by Teed ([0030]).

Regarding claims 21, 22 and 29, Welt discloses a device for removing a composition, the device comprising: a non-shaving head (4) with a concave profile; a handle (6) having a curvature profile and a broadened end distal from the non-shaving head, the curved profile defining a downward concave curvature that extends along a majority of the length of the handle (fig. 7); and a joint comprising an upwardly open V-shaped notch between the head and the handle, permitting an articulation of the head about the handle (column 2, lines 47-53).

Welt fails to disclose wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle.

However, Teed teaches a non-shaving head wherein the concave curvature profile of the handle extends continuously along a majority of the length of the handle (figs. 1, 2; [0030]; wherein the handle begins proximal to strap 23).

Given the teachings of Teed, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Welt with the continuous concave handle of Teed. Doing so provides a comfortable fit in the palm of the user's hand, as disclosed by Teed ([0030]).

Regarding claims 2, 15 and 23, Welt essentially discloses the device wherein there is a resistance force acting against articulation of the head, which resistance force increases as the articulation increases (column 3, lines 47-53).

Regarding claims 3 and 24, Welt essentially discloses the invention wherein the head comprises an articulation about the handle through an angle in the range of 10 to 40° (fig. 7).

Regarding claims 4 and 25, Welt essentially discloses the device wherein when the force, causing articulation of the head, is reduced or removed the head is able to recover a previous or original position (fig. 7).

Regarding claims 5-7 and 26-28, Welt essentially discloses the device being unitary and made of plastic (column 2, lines 40-44) wherein the handle is substantially rigid, the head is substantially rigid, and the joint is the only source of articulation (column 3, lines 47-53).

Regarding claims 8 and 16, Welt essentially discloses the invention wherein the joint is formed by a web of plastic material at the base of an upwardly open notch between the handle and the head (column 2, lines 40-44).

Regarding claims 30, 32 and 33, Welt essentially discloses wherein the head has a rigid, non-conforming leading edge that effects the removal of the composition (column 3, lines 7-11; wherein Welt also teaches conforming edges (column 3, lines 34-46); therefore, all other edges are non-conforming and made of rigid plastic).

Regarding claim 31, Welt essentially discloses wherein the upward opening closes when a downward force, to effect the removal of the composition, is applied to the handle, and wherein the closure of the upward opening limits the articulation of the head about the handle (fig. 7; column 3, lines 47-53; wherein the opening inherently closes to some extent as the head is moved).

Response to Arguments

Applicant's arguments with respect to claims 1-8, 14-16 and 21-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH A. SIMPSON whose telephone number is 571-270-3865. The examiner can normally be reached on Monday - Friday 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah A Simpson/
Examiner, Art Unit 3731
10/23/2010

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
10/23/10